

Appl. No. 10/750,479
Amendment dated February 23, 2007
Reply to Office Action of January 31, 2007

BEST AVAILABLE COPY**REMARKS**

Claims 1-28 are presented for the Examiner's consideration. Claims 13 and 18 are amended to clarify the claimed invention.

By way of Section 4 of the Office Action mailed November 30, 2006, claims 1-28 are rejected under 35 U.S.C. § 103(a) as allegedly being anticipated, and thus unpatentable, over Kuske et al. (US 6,318,555) (hereinafter "Kuske"). These rejections are respectfully **traversed**.

To establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143.

With respect to independent claim 1, there is no motivation or suggestion in Kuske for one of skill in the art to modify the Kuske disclosure to achieve the claimed invention, and the Examiner has not described any motivation or suggestion outside of Kuske to do so. Kuske and the present application describe completely different ways of reducing at least one dimension of absorbent article. Kuske describes compressing a stack of absorbent articles to decrease the thickness of the stack. See col. 3, line 64 to col. 4, line 10 and Fig. 4. The compression reduces the thickness 68 of the stack of absorbent articles. Although the absorbent articles in Kuske appear to be folded once, no further folding is contemplated by Kuske. The width and height dimensions 70, 72 (see Fig. 4) of the once-folded absorbent articles do not change significantly under Kuske's compression. As a result, Kuske does not teach experimenting with the folding of an absorbent article, only compressing the article's thickness.

Contrarily, the present invention claims a reduction in the overall dimension of an absorbent article by folding the absorbent article. The resulting folded article may very well have an increased thickness compared to an unfolded article, which is opposite the effect sought by Kuske. That the folding of the present invention and the compression of Kuske are not equivalent may be further illustrated by examining Fig. 4 in Kuske. Folding each absorbent article again, such that each article has two folds, would likely nearly double the thickness 68 of the stack, whereas Kuske actually sought to reduce the thickness 68 of the stack by compressing the stack.

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The Examiner states that Kuske discusses compressing an absorbent article as the *In re Aller* "general condition" one skilled in the art may optimize through routine experimentation. Because Kuske describes only compressing a stack of articles to make the stack thinner, one skilled in the art may be led to experiment with compressing a stack of articles to make the stack thinner. But that experimentation will not reduce the folded dimensions of the article as required by the claimed invention. Kuske does not teach or suggest the claimed invention to one skilled in the art.

Second, the Examiner has not described in any manner how or even if there might be a reasonable expectation of success in modifying Kuske.

Third, all the claim limitations are not taught or suggested by the prior art reference. As stated above, any teachings or suggestions in Kuske are on completely different subject matters from that of the claimed invention.

Therefore, the rejection of independent claim 1 (as well as its respective dependent claims) is respectfully requested to be withdrawn.

By way of Section 4 of the Office Action mailed November 30, 2006, claim 13 is rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Kuske. Independent claim 13 has been amended to clarify the exclusive or close-ended nature of a relevant portion of the claim. Claim 13 (and thus also its dependent claims) includes at least one element not found in Kuske (or the other art of record), namely, the package of the subject invention includes only one interior space, wherein the interior space is sized to enclose no more disposable absorbent articles than the single disposable absorbent article.

With at least this element lacking from the teaching of Kuske, the presented claims cannot be anticipated nor made obvious by Kuske. Moreover, the teaching in Kuske in regard to a single item package, and Kuske as a whole, teaches away from Applicants' now recited invention because Kuske is a multiple item package. Therefore, the rejection of independent claim 13 (as well as its respective dependent claims) is respectfully requested to be withdrawn.

By way of the Office Action mailed November 30, 2006, claims 2, 3, 5-7, 9, 18, 19, 21-23, and 25 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Kuske. This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

Independent claim 18 has been amended to clarify the exclusive or close-ended nature of a relevant portion of the claim. Claim 18 (and thus also its dependent claims) includes at least one element not found in Kuske (or the other art of record), namely, that the package of the subject invention is sized to

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enclose no more disposable absorbent articles than the single disposable absorbent article. With at least this element lacking from the teaching of Kuske, the presented claims cannot be anticipated by nor made obvious by Kuske. Moreover, the teaching in Kuske in regard to a single item package, and Kuske as a whole, teaches away from Applicants' now recited invention because Kuske is a multiple item package. Therefore, the rejection of independent claim 18 (as well as its respective dependent claims) is respectfully requested to be withdrawn.

In addition, the Examiner recognizes that the Kuske reference does not disclose the rigidity of the walls of the package. However, the Examiner opines that the teaching of Kuske would have been obvious to one of ordinary skill in the art to make such a different rigidity walled package, as set forth in Applicants' application. The Applicants assert that such a reading of Kuske is not proper, that Kuske could not be so modified to obtain the Applicants' invention, and that Kuske presently does not teach the Applicants' subject invention. In particular, turning to Kuske at column 3, line 57 to column 4, line 58, and namely column 4, lines 16-36, it is clear that the packaging material taught in Kuske is a material with a homogenous rigidity. Much differently, the subject invention calls for the package being composed of a first piece of material and a second piece of material, where one of the pieces of material (i.e., that is the entire piece of material, although it need not have the same rigidity but the entire piece would have a characteristic rigidity) being more rigid than the other piece of material. Thus, for the subject invention, it is the entire piece of material that is more rigid than the other piece of material.

Differently, Kuske only teaches a uniform rigidity for the entire packaging. And while the packaging may have a weakened area 74 to permit access, as noted by the Examiner, such does not speak to the entire piece of material having a different rigidity but rather such just teaches a piece of material having a weakened line in it. To teach such a multi-rigidity container based on Kuske and the general state of the art would be contrary to the claimed teaching in Kuske. For at least these reasons, claims 2, 3, 5-7, 9, 18, 19, 21-23, and 25 cannot be rendered obvious by Kuske. Thus, the rejection of these claims is respectfully requested to be withdrawn.

Additionally, the dependent claims recite features not taught or suggested by Kuske. For these additional reasons, such claims cannot be rendered obvious by Kuske.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

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Respectfully submitted,

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